

1 STEVEN C. MITCHELL, ESQ., SBN 124644
2 GEARY, SHEA, O'DONNELL, GRATTAN & MITCHELL, P.C.
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4 Attorneys for Defendants
5 COUNTY OF SONOMA, BILL COGBILL, SONOMA COUNTY
6 DEPUTY SHERIFF JOHN MISITA, SONOMA COUNTY DEPUTY
SHERIFF JIM RYAN

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 ESTATE OF JEREMIAH CHASS, MARK
12 CHASS, YVETTE CHASS, and I.C., a minor,
by and through his Guardian Ad Litem,
YVETTE CHASS,

13 Plaintiffs,

14 v.

15 COUNTY OF SONOMA, BILL COGBILL, in
16 his individual capacity and in his official
capacity as Sheriff for the COUNTY OF
17 SONOMA, SONOMA COUNTY DEPUTY
SHERIFF JOHN MISITA, SONOMA COUNTY
18 DEPUTY SHERIFF JIM RYAN, and DOES 1
through 50,

19 Defendants and Third Party Plaintiffs,

20 v.

21 SANTA ROSA MEMORIAL HOSPITAL,

22 Third Party Defendants.

CASE NO.: CV 08 0111 MMC

**DECLARATION OF STEVEN C.
MITCHELL RE: MOTION FOR LEAVE
TO FILE A THIRD PARTY COMPLAINT**

Date: August 15, 2008

Time: 9:00 a.m.

Dept: 7, 19th Floor

Trial Date: June 29, 2009

Honorable Maxine M. Chesney

24 I, Steven C. Mitchell, declare and state as follows:

25 1. I am an attorney at Geary, Shea, O'Donnell, Grattan & Mitchell, P.C., counsel for
defendants in connection with the above action. I have personal, firsthand knowledge of the
matters set forth below and, if called upon to testify, could and would competently testify thereto.

26 27 28 ///

1 2. The Initial Case Management Conference in this matter took place on April 18,
 2 2008. Prior to that, of course, we could not initiate deposition discovery. At the time of the Case
 3 Management Conference, including in the Case Management Statement, we advised plaintiffs, and
 4 the court, of the potential for bringing in Santa Rosa Memorial Hospital as a party to this action,
 5 depending upon discovery. As a result, we promptly, as the first two depositions in this matter,
 6 took the depositions of Andy Prokopis, PhD., and Jillian Wilbur, the intake coordinator at the Acute
 7 Psychiatric Unit for Santa Rosa Memorial Hospital, on May 19 and June 25, 2008, respectively.
 8 These two individuals were the persons most intimately involved in attempts to have Jeremiah
 9 Chass, the decedent, evaluated and treated, on an emergency basis, the evening before the incident
 10 which led to the filing of the complaint. We received the deposition transcript of Ms. Wilbur on
 11 July 7, 2008.

12 3. Based upon the deposition testimony of both Dr. Prokopis and Ms. Wilbur, and after
 13 consulting with experts, we determined that the advice given by Santa Rosa Memorial Hospital fell
 14 below the standard of care in apparently advising the Chass family to not bring Jeremiah Chass in
 15 for emergency treatment the evening before the incident but, rather, to wait until the morning to do
 16 so. Unfortunately, and predictably, his condition worsened and, from our perspective, he became
 17 homicidal, armed himself with a knife, threatened to kill his brother, all of which lead to the
 18 dangerous and violent confrontation with two deputy Sheriff's which is the subject of the present
 19 action. There is discrepancy in the testimony regarding this point, and the information that was
 20 conveyed, but we believe that there is ample basis upon which to pursue this third party complaint.
 21 Accordingly, as soon as possible after receiving the deposition testimony and deposition transcripts,
 22 we contacted plaintiffs' counsel to see if they would stipulate to the filing of a third party complaint
 23 against Santa Rosa Memorial Hospital. Both Mr. Emery and Mr. Schwartz, either by way of email
 24 communication, telephone communication, or both, advised that they would stipulate to the filing
 25 of a third party complaint against Santa Rosa Memorial Hospital. In fact, we attached hereto, as
 26 Exhibit "B", a copy of the stipulation signed by counsel to this effect.

27 4. Attached hereto as Exhibit "A" is a copy of the proposed third party complaint.
 28 ///

1 5. I spoke to counsel for Santa Rosa Memorial Hospital, Lauren Tate, Esq., before
2 filing the third party complaint, and she agreed to waive the 90 day notification period otherwise
3 required by Code of Civil Procedure § 364(a) in exchange for us not naming the intake coordinator
4 as an individual defendant.

I declare under penalty of perjury the foregoing is true and correct. Executed this

6 31 day of July, 2008 in Santa Rosa, California.

GEARY, SHEA, O'DONNELL, GRATTAN & MITCHELL, P.C.

By S. Miller

STEVEN C. MITCHELL

Attorneys for Defendants

COUNTY OF SONOMA, BILL COGBILL,
SONOMA COUNTY DEPUTY SHERIFF
JOHN MISITA and SONOMA COUNTY
DEPUTY SHERIFF JIM RYAN

LAW OFFICES OF
**GEARY,
SHEA,
O'DONNE
GRATTAN
MITCHEL
P.C.**

EXHIBIT A

1 STEVEN C. MITCHELL, ESQ., SBN 124644
2 LEO R. BARTOLOTTA, ESQ., SBN 186860
3 MATTHEW K. GOOD, ESQ., SBN 226962
4 GEARY, SHEA, O'DONNELL, GRATTAN & MITCHELL, P.C.
5 37 Old Courthouse Square, Fourth Floor
Santa Rosa, California 95404
Telephone: (707) 545-1660
Facsimile: (707) 545-1876

6 Attorneys for Defendants and Third Party Plaintiffs,
7 COUNTY OF SONOMA, BILL COGBILL, SONOMA COUNTY
8 DEPUTY SHERIFF JOHN MISITA, SONOMA COUNTY DEPUTY
SHERIFF JIM RYAN

9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11
12 ESTATE OF JEREMIAH CHASS, MARK
13 CHASS, YVETTE CHASS, and I.C., a minor,
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YVETTE CHASS,

15 Plaintiffs,

16 v.

17 COUNTY OF SONOMA, BILL COGBILL, in
18 his individual capacity and in his official
19 capacity as Sheriff for the COUNTY OF
SONOMA, SONOMA COUNTY DEPUTY
20 SHERIFF JOHN MISITA, SONOMA COUNTY
DEPUTY SHERIFF JIM RYAN, and DOES 1
21 through 50,

22 Defendants and Third Party Plaintiffs,

23 v.

24 SANTA ROSA MEMORIAL HOSPITAL,

25
26 Third Party Defendants.

CASE NO.: CV 08 0111 MMC

THIRD PARTY COMPLAINT
(F.R.C.P. Rule 14)

THIRD PARTY COMPLAINT FOR INDEMNITY

2 1. Plaintiffs, ESTATE OF JEREMIAH CHASS, MARK CHASS, YVETTE CHASS, and
3 I.C., a minor, by and through his Guardian Ad Litem, YVETTE CHASS (“Plaintiffs”), filed a
4 complaint in the above action against Defendants COUNTY OF SONOMA, BILL COGBILL, in
5 his individual capacity and in his official capacity as Sheriff for the COUNTY OF SONOMA,
6 SONOMA COUNTY DEPUTY SHERIFF JOHN MISITA, and SONOMA COUNTY DEPUTY
7 SHERIFF JIM RYAN (“Defendants” or “Third Party Plaintiffs”), alleging claims under 42 U.S.C.
8 Section 1983, and claims under California State law for wrongful death and negligent infliction of
9 emotional distress. Defendants deny said allegations as set forth in their Answer.

10 2. Third Party Defendant, SANTA ROSA MEMORIAL HOSPITAL (“Hospital”), at all
11 relevant times, was, and is a California corporation, doing business in the State of California,
12 County of Sonoma, and was operating as a hospital pursuant to a license duly issued by the
13 California State Department of Health. Hospital maintains and operates an emergency room in the
14 City of Santa Rosa, California.

FACTUAL ALLEGATIONS

16 3. Third Party Plaintiffs allege on information and belief, that on March 11, 2007, Plaintiff,
17 Yvette Chass, contacted Santa Rosa Memorial Hospital and spoke with a Hospital employee who
18 was acting in the role as the intake coordinator for the acute psychiatric unit of Santa Rosa
19 Memorial Hospital. Yvette Chass was contacting Santa Rosa Memorial Hospital to report her
20 concerns regarding the mental stability of her minor son, Jeremiah Chass.

21 4. Third Party Plaintiffs allege on information and belief, that at approximately 10:35 p.m. on
22 March 11, 2007, Yvette Chass told the intake coordinator that Jeremiah Chass was having a
23 “psychotic break”. Yvette Chass communicated to the intake coordinator that Jeremiah Chass
24 stated that he was going to die at 1 a.m. and that Yvette Chass would die at 1 a.m. that night.
25 Yvette Chass then requested that the intake coordinator speak with Andy Prokopis, PhD., a family
26 friend and psychologist, who had recent contact and communication with Jeremiah Chass. The
27 intake coordinator agreed to speak with Dr. Prokopis.

28 5. Third Party Plaintiffs allege on information and belief, that at approximately 10:40 p.m. on

1 March 11, 2007, the intake coordinator spoke with Dr. Prokopis regarding Jeremiah Chass'
 2 psychological status. Dr. Prokopis provided the intake coordinator with a history of Jeremiah
 3 Chass' condition, described their recent interactions, including a meeting with Yvette Chass that
 4 day, and a telephone conversation between Dr. Prokopis and Jeremiah Chass that occurred that
 5 evening. According to Dr. Prokopis, he reported to the intake coordinator that Jeremiah Chass was
 6 exhibiting signs and symptoms of psychotic behavior, including statements by Jeremiah Chass that
 7 he was going to die at 1 a.m. that night and that his mother would die, incoherent and delusional
 8 descriptions of his "Formula for the Universe," rapid speech patterns, delusional references to other
 9 voices speaking to him, anxious and emotional tone, and Jeremiah's apparent focus on internal
 10 stimulation. Dr. Prokopis advised the intake coordinator that he believed Jeremiah Chass required
 11 emergency care and an immediate psychological assessment, as Jeremiah Chass was expressing
 12 suicidal ideation and stating that his mother would die that evening.

13 6. Despite Dr. Prokopis' apparent report of Jeremiah Chass' suicidal and possible homicidal
 14 ideation, psychotic behavior, the other information set forth above, and statements that his mother
 15 would die that night, both Mrs. Chass and Dr. Prokopis contend that the intake coordinator advised
 16 them that they should wait until the morning to have Jeremiah Chass evaluated and treated, and
 17 advised that he would likely not be seen at all in the emergency room even if they brought him in
 18 that night, as Dr. Prokopis was urging.

19 7. Third Party Plaintiffs allege on information and belief, that based upon the intake
 20 coordinator's statements to Dr. Prokopis and Yvette Chass that Jeremiah Chass would not be
 21 provided any medical or psychological services at the Hospital on the evening of March 11, 2007 or
 22 the early morning of March 12, 2007, if Yvette Chass was to bring her son to Santa Rosa Memorial
 23 Hospital emergency room, Yvette Chass did not take Jeremiah Chass to the emergency room for
 24 medical care or a psychological evaluation.

25 8. At all times herein mentioned, the intake coordinator was the agent, servant and employee
 26 of Hospital, and as such, was acting within the time, place, purpose and scope of said employment
 27 and agency, and Hospital ratified, authorized and approved the acts of the intake coordinator.
 28 Additionally, at all times mentioned herein, the intake coordinator was licensed as a psychologist

1 under the State of California

ALLEGATIONS REGARDING THIRD PARTY LIABILITY

(Medical Malpractice – Claim for Indemnity)

4 9. Santa Rosa Memorial Hospital, by and through their employee and agent, had a duty and
 5 obligation to provide medical and psychological care in a manner consistent with the standard of
 6 care in the community, including the duty to provide medical and psychological advice to
 7 individuals that seek emergency services from Hospital. Hospital also had a duty and obligation to
 8 provide emergency care and treatment pursuant to California Health and Safety Code Section 1317.

9 10. On or about March 11, 2007, Yvette Chass sought medical and psychological care for her
 10 minor child, Jeremiah Chass, by contacting Hospital and speaking with the intake coordinator. The
 11 intake coordinator, as an employee and agent of Hospital, undertook to provide medical and
 12 psychological care, advice and consultation to Yvette Chass, and provided medical and
 13 psychological advice through her consultation with Yvette Chass and Dr. Prokopis, thereby
 14 establishing a duty and obligation to provide such professional advice through the consultation in a
 15 manner that was consistent with the standard of care in the community. Further, the intake
 16 coordinator had a duty to provide emergency care pursuant to California Health and Safety Code
 17 Section 1317.

18 11. On or amount March 11, 2007, Hospital, by and through their employee, the intake
 19 coordinator, failed to comply with the standard of care in the community and failed to comply with
 20 the requirements of California Health and Safety Code Section 1317, in that, after being advised by
 21 Yvette Chass and Dr. Prokopis that Jeremiah Chass was exhibiting symptoms of psychosis,
 22 including suicidal and possible homicidal ideation and statements that Yvette Chass would die that
 23 night, the intake coordinator negligently advised Yvette Chass to wait until the following morning
 24 to bring Jeremiah Chass to the emergency. Yvette Chass, after consultation with the intake
 25 coordinator, and relying on the advice and professional opinions of the intake coordinator, did not
 26 take Jeremiah Chass to the emergency room on the night of March 11, 2007.

27 12. As a result of the negligence of Hospital and their employee and agent, the intake
 28 coordinator, Jeremiah Chass was not taken to the emergency room and did not receive a

1 psychological evaluation or assessment. Jeremiah Chass' psychological condition predictably
 2 continued to deteriorate through the evening of March 11, 2007, and the early morning of March
 3 12, 2007. Jeremiah Chass, on the morning of March 12, 2007, became delusional and violent.
 4 Jeremiah Chass assaulted his brother and threatened to kill his brother with a knife. In response to
 5 this assault and threat to kill his brother, Yvette Chass called 911 and requested assistance from
 6 Third Party Plaintiffs. Third Party Plaintiffs responded to Yvette Chass' request for emergency
 7 services and were confronted with Jeremiah Chass in a violent, delusional, and homicidal state,
 8 threatening to kill his brother, and armed with a knife. During the evolving struggle, and in
 9 response to the threat of great bodily harm or death to themselves and others, the officers justifiably
 10 used deadly force against Jeremiah Chass. Plaintiffs have filed a complaint for damages against
 11 Third Party Plaintiffs as a result of said incident..

12 13. Had the intake coordinator complied with the standard of care and advised Yvette Chass
 13 that Jeremiah Chass should be brought to the emergency room for assessment, Jeremiah Chass
 14 would have been transported to the emergency room and would have received treatment and/or
 15 services that would have prevented his further mental decline. Further, had Jeremiah Chass
 16 received medical and psychological treatment and/or services at the Hospital emergency room, he
 17 would not have assaulted his brother, or threatened to kill his brother on the morning of March 12,
 18 2007. The events that occurred on the morning of March 12, 2007, including the violent behavior
 19 of Jeremiah Chass and the use of force against Jeremiah Chass were a foreseeable consequence of
 20 Hospital's failure to comply with the standard of care.

21 14. Additionally, Third Party Plaintiffs allege on information and belief, that Santa Rosa
 22 Memorial Hospital had a duty to provide the intake coordinator with appropriate training and
 23 guidance regarding her duties when responding to calls from individuals in the community.
 24 Further, Santa Rosa Memorial Hospital had a duty to prepare and maintain policies and procedures
 25 regarding the duties and obligations of the acute psychiatric unit's intake coordinator that complied
 26 with the standard of care in the community.

27 15. Third Party Plaintiffs allege, on information and belief, that Santa Rosa Memorial
 28 Hospital failed to provide the intake coordinator with appropriate training and guidance regarding

1 her duties as the intake coordinator for the acute psychiatric unit, and failed to maintain policies and
 2 procedures regarding the duties and obligations of the acute psychiatric unit's intake coordinator.

3 16. As a result of Santa Rosa Memorial Hospital's failure to provide the intake coordinator
 4 with appropriate training and guidance regarding her duties as the intake coordinator for the acute
 5 psychiatric unit, and their failure to maintain policies and procedures that complied with the
 6 standard of care in the community, the intake coordinator failed to provide guidance, advice and
 7 counsel to Yvette Chass that complied with the standard of care in the community. As a result of
 8 the negligent guidance, advice and counsel of the intake coordinator, Yvette Chass failed to seek
 9 emergency care for Jeremiah Chass, resulting his eventual death. The events that occurred on the
 10 morning of March 12, 2007, including the violent behavior of Jeremiah Chass and the use of force
 11 against Jeremiah Chass were a foreseeable consequence of Hospital's failure to comply with the
 12 standard of care.

13 17. Third Party Plaintiffs contend that, as between Third Party Plaintiffs and third party
 14 defendant Hospital, responsibility, if any, for the damages claimed by Plaintiffs rest entirely or
 15 partially on Hospital. As a result, Hospital is obligated to fully or partially indemnify Third Party
 16 Plaintiffs for any sums that they may be compelled to pay as the result of any damages, judgment,
 17 or other awards recovered by Plaintiffs against Third Party Plaintiffs.

18 18. Third Party Plaintiffs desire a determination of the respective rights and duties of the
 19 parties with respect to the damages claimed by Plaintiffs. In particular, Third Party Plaintiffs desire
 20 a determination of the comparative liability of Third Party Plaintiffs and Hospital for these damages
 21 and a determination of Hospital's responsibility for comparative indemnity to Third Party Plaintiffs
 22 for any sums that they may be compelled to pay and for which Third Party Plaintiffs are determined
 23 responsible, entirely or in part.

24 19. Such a determination is necessary and appropriate at this time in order that Third Party
 25 Plaintiffs may ascertain their rights and duties with respect to Plaintiffs' claims for damages.
 26 Furthermore, the claim of Plaintiffs and the claim of Third Party Plaintiffs arise out of the same
 27 transaction, and determination of both in one proceeding is necessary and appropriate in order to
 28 avoid the multiplicity of actions that would result if Third Party Plaintiffs are required now to

defend against the claims of Plaintiffs and then bring a separate action against Hospital for indemnification of sums that they may be compelled to pay as the result of any damages, judgment, or other awards recovered by Plaintiffs against Third Party Plaintiffs.

Wherefore, Defendants and Third party Plaintiffs, COUNTY OF SONOMA, BILL COGBILL, in his individual capacity and in his official capacity as Sheriff for the COUNTY OF SONOMA, SONOMA COUNTY DEPUTY SHERIFF JOHN MISITA, and SONOMA COUNTY DEPUTY SHERIFF JIM RYAN prays judgment against SANTA ROSA MEMORIAL HOSPITAL as follows:

- 9 1. For a judicial determination of the comparative fault of Third Party Plaintiffs
10 and Hospital for the damages claimed by Plaintiffs, if any;

11 2. For a declaration of the amount that Hospital is obligated to indemnify Third
12 Party Plaintiffs if they are required to pay any sum as the result of any
13 damages, judgment or other awards recovered by Plaintiffs against Third
14 Party Plaintiffs;

15 3. For costs of suit herein incurred; and

16 4. For such other relief as the court may deem proper.

DATED: , 2008

GEARY, SHEA, O'DONNELL, GRATTAN
& MITCHELL, PC

By:

STEVEN C. MITCHELL, ESQ.
Attorneys for County of Sonoma,
County of Sonoma Sheriff's
Department, Deputies Misita and Ryan
and Sheriff Bill Cogbill

LAW OFFICES OF
**GEARY,
SHEA,
O'DONNE
GRATTAN
MITCHEL
P.C.**

EXHIBIT B

1 STEVEN C. MITCHELL, ESQ., SBN 124644
2 LEO R. BARTOLOTTA, ESQ. SBN 186860
3 MATTHEW K. GOOD, ESQ., SBN 226962
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6 Attorneys for Defendants and Third Party Plaintiffs
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8 SHERIFF JIM RYAN
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9 UNITED STATES DISTRICT COURT
10

11 NORTHERN DISTRICT OF CALIFORNIA
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21 through 50,

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24 SANTA ROSA MEMORIAL HOSPITAL,
25

26 Third Party Plaintiffs
27

CASE NO.: CV 08 0111 MMC

STIPULATION RE: FILING OF THIRD
PARTY COMPLAINT

1 Plaintiffs, ESTATE OF JEREMIAH CHASS, MARK CHASS, YVETTE CHASS,
 2 and I.C., a minor, by and through his Guardian Ad Litem, YVETTE CHASS have filed suit against
 3 the Defendants COUNTY OF SONOMA, BILL COGBILL, in his individual capacity and in his
 4 official capacity as Sheriff for the COUNTY OF SONOMA, SONOMA COUNTY DEPUTY
 5 SHERIFF JOHN MISITA, and SONOMA COUNTY DEPUTY SHERIFF JIM RYAN , and others,
 6 arising out of an incident which occurred on March 12, 2007, by and through their attorneys of
 7 record, Andrew Schwartz and Patrick Emery.

8 Defendants and Third Party Plaintiffs are filing a motion for leave to file a third party
 9 complaint seeking indemnification and contribution from third party defendant, Santa Rosa
 10 Memorial Hospital.

11 Plaintiffs, by and through their attorney's of record hereby stipulate and agree that they do
 12 not oppose Defendants request for leave to file the Third Party Complaint against Santa Rosa
 13 Memorial Hospital pursuant to Federal Rules of Civil Procedure, Rule 14.

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DATED: _____, 2008

ABBEY, WEITZENBERG, WARREN
& EMERY

By: _____

PATRICK EMERY, ESQ.
Attorneys for PlaintiffsDATED: 8/1/08, 2008GEARY, SHEA, O'DONNELL, GRATTAN
& MITCHELL, PC

By: _____

STEVEN C. MITCHELL, ESQ.
Attorneys for County of Sonoma,
County of Sonoma Sheriff's
Department, Deputies Misita and Ryan
and Sheriff Bill Cogbill

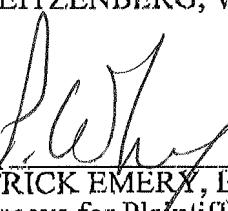
1 Plaintiffs, ESTATE OF JEREMIAH CHASS, MARK CHASS, YVETTE CHASS,
2 and I.C., a minor, by and through his Guardian Ad Litem, YVETTE CHASS have filed suit against
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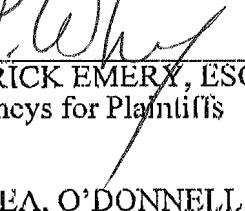
14
15
16 DATED: August 1, 2008

ABBEY, WEITZENBERG, WARREN
& EMERY

17
18
19 By: 
PATRICK EMERY, ESQ.
Attorneys for Plaintiffs

20
21 DATED: _____, 2008

GEARY, SHEA, O'DONNELL, GRATTAN
& MITCHELL, PC

22
23
24 By: 
STEVEN C. MITCHELL, ESQ.
Attorneys for County of Sonoma,
County of Sonoma Sheriff's
Department, Deputies Misita and Ryan
and Sheriff Bill Cogbill

LAW OFFICES OF
GEARY,
SHEA,
O'DONNELL
GRATTAN &
MITCHELL
P.C.

1 Case No: CV 08 0111 MMC

United States District Court, Northern District of California

2 **PROOF OF SERVICE**3 I am employed in the County of Sonoma, State of California. I am over the age of 18 years
4 and not a party to the within action. My business address is Geary, Shea, O'Donnell, Grattan &
5 Mitchell, 37 Old Courthouse Square, Fourth Floor, Santa Rosa, CA 95404.

6 On August 1, 2008, I served the attached:

7 **DECLARATION OF STEVE C. MITCHELL RE: MOTION
FOR LEAVE TO FILE A THIRD PARTY COMPLAINT**8 on the parties to this action by placing a true copy thereof in a sealed envelope, addressed as
9 follows:

| | | |
|----|---|---|
| 10 | Andrew C. Schwartz, Esq. Casper, Meadows, Schwartz & Cook A Professional Corporation California Plaza 2121 North California Boulevard, Suite 1020 Walnut Creek, CA 94596 | Telephone: 925/947-1147 Facsimile: 925/947-1131 Attorney for Plaintiffs |
| 14 | Patrick Emery, Esq. Abbey, Weitzenberg, Warren & Emery 100 Stony Point Road, Suite 200 Santa Rosa, CA 95402-1566 | Telephone: 707/542-5050 Facsimile: 707/542-2589 Attorney for Plaintiffs |

17 /X/ (BY MAIL) I placed a copy of the above-described document in sealed envelope, with
18 postage thereon fully prepared for First-Class Mail, addressed to the parties as set forth above, for
19 collection and mailing at Santa Rosa, California, following ordinary business practices. I am
20 readily familiar with the practice of Geary, Shea, O'Donnell, Grattan & Mitchell for processing of
correspondence, said practice being that in the ordinary course of business, correspondence is
deposited in the United States Postal Service the same day as it is placed for processing.21 /_/ (BY OVERNIGHT DELIVERY, PURSUANT TO CCP '1013(c)) I placed such sealed
envelope for collection and mailing by overnight delivery at Santa Rosa, California, within the
ordinary business practices of Geary, Shea, O'Donnell, Grattan & Mitchell. I am readily familiar
with the practices of Geary, Shea, O'Donnell, Grattan & Mitchell for processing overnight
correspondence, said practice being that in the ordinary course of business, correspondence is either
picked up by or delivered to the delivery company the same day as it is placed for processing.25 /_/ (BY FACSIMILE) I caused the above-described document to be transmitted, pursuant to Rule
2008, by facsimile machine (which complies with Rule 2003(3)) to the parties at the number(s)
indicated after the address(es) noted above. The transmission was reported as complete and without
error.

28 ///

1 / (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the parties at
the address(es) noted above.

3 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Santa Rosa, California, on August 1, 2008.

Michelle A. Stewart
Michelle A. Stewart

Michelle A. Stewart

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LAW OFFICES OF
**GEARY,
SHEA,
O'DONNE
GRATTAN
MITCHEL
P.C.**